

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$2,042.44 for date of service, 06/04/02.
- b. The request was received on 07/23/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60
  - b. UB-92(s)
  - c. EOB/TWCC 62 forms/Medical Audit summary
  - d. Itemized Medical Bill
  - e. Copy of Carrier contract
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

The Commission requested two copies of additional documentation via a Fee Letter (MR116) that was mailed to the Requestor on 08/05/02. The Requestor did not respond per Rule 133.307 (g) (3). Therefore, the Commission could not forward any additional documentation to the Respondent per Rule 133.307 (g) (4). There is no initial response in the dispute packet.

3. Notice of "No Carrier Sign Sheet" is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: No position statement found in dispute packet.
2. Respondent: No response statement found in dispute file.

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 06/04/02.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$3,520.87 for services rendered on the date above in dispute.
4. Per updated information received 03/25/03 via fax, the the Carrier paid the Requestor \$1,118.00 for services rendered on the date above in dispute.
5. The Carrier's EOBs deny additional reimbursement as "C – PAID IN ACCORDANCE WITH AFFORDABLE PPO.; M – IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE."
6. The Requestor has included a copy of the managed care contract contract, with the Carrier, in the file dispute packet.
7. Per updated information received 03/25/03 via fax received 03.25.03, the amount in dispute is \$1,874.74 for services rendered on the remaining date above in dispute.

#### **V. RATIONALE**

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an outpatient surgery center. Commission Rule 134.401 (a)(4) states outpatient surgical centers, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i) (1-4) places certain requirements on the Carrier when reducing the billed amount to fair and reasonable. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable.

Due to the fact that there is no current fee guideline for outpatient surgical centers, the Medical Review Division has to determine which party has provided the most persuasive evidence for the services provided. The carrier did not respond to the Provider's request for medical fee dispute resolution. The provider has submitted a copy of the managed care contract that indicates the Requestor will accept 85% of the billed charges. However, the discussion does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(d) of the Texas Labor Code.

Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 25<sup>th</sup> day of March 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Medical Review Division

DT/dt